IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

OP.No. 25414 of 2000(A)

PETITIONER:

DR.JOSEPH ISSAC, S/O.PROF.M.I.ISSAC, AGED 40 YEARS, CLINICAL PSYCHOLOGIST, MEDICAL COLLEGE HOSPITAL, KOTTAYAM (PRESIDENT, KERALA GOVERNMENT CLINICAL PSYCHOLOGIST ASSOCIATION).

BY ADV. SRI.V.A.MUHAMMED
SRI.K.E.HAMZA

RESPONDENTS:

THE STATE OF KERALA REPRESENTED BY ITS CHIEF SECRETARY, TRIVANDRUM.

BY GOVT PLEADER SMT.SMITHA SUKUMAR

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 19/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NO.42814 OF 2000 IN OP NO.25414 OF 2000 A

//DISMISSED//

19.06.2007. SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE.

APPENDIX

PETIITONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE ORDER IN WHICH QUALIFICATIONS WERE PRESCRIBED BY THE GOVERNMENT IN MEDICAL EDUCATION SERVICE G.O.MS.NO.220/82/HD 30.9.82.

EXT.P2: TRUE COPY OF THE NOTIFICATION ISSUED BY THE PUBLIC SERVICE COMMISSION CALLING FOR CLINICAL PSYCHOLOGISTS. NO.D.R.1(4) 7107/87 3.3.87.

EXT.P3: TRUE COPY OF THE PETITION MOVED BEFORE THE RESPONDENT DT.6.3.97.

EXT.P4: TRUE COPY OF THE JUDGMENT IN O.P.NO.10515/97 OF THIS HON'BLE COURT DT.19.6.97.

EXT.P5: TRUE COPY OF THE LETTER NO.24923/SPL.I/97/H&PWD DATED 18.3.98 OF THE ADDL. SECRETARY TO GOVERNMENT ADDRESSED TO THE PETITIONER.

EXT.P6: TRUE COPY OF THE JUDGMENT IN O.P.NO.16313/98 OF THIS HON'BLE COURT DT.10.11.99.

EXT.P7: TRUE COPY OF THE LETTER NO.45869/SPL.I/98/H&PWD DATED 27.5.2000 ISSUED BY THE UNDER SECRETARY TO the PETITIONER.

EXT.P8: TRUE COPY OF THE RELEVANT PORTION OF THE GOVERNMENT LETTER NO.E2/1114/68/N.H DT.5.7.69.

EXT.P9: TRUE COPY OF THE ORDER PRESCRIBING QUALIFICATIONS IN 1958 G.O. (MS)223/68/HEALTH DT.1.6.68.

EXT.P10: TRUE COPY OF THE GOVERNMENT ORDER NO.G.O.(MS)382/74/FIN. DATED 19.11.1974.

/TRUE COPY/

THOTTATHIL B.RADHAKRISHNAN, J.

O.P.No.25414 OF 2000

Dated this the 19th day of June, 2007

JUDGMENT

Petitioner is a Clinical Psychologist in the department of Medical Education. The qualifications prescribed for appointment as Clinical Psychologist in the Medical Colleges and as Clinical Psychologist in the Health Department are the same. According to the petitioner, their duties and responsibilities are also the same. The petitioner contended that there was anomaly in the fixation of pay scales and therefore, moved the Government for rectification of the same. This led to O.P.No.16313/98 being filed before this Court. The Government took the stand that it had already noticed disparity between the two scales of pay of the Clinical Psychologists working in the Medical Colleges and those working in the Health Department and the issue has been referred to the Pay Revision Committee. This Court, noticing that the stand of the Government is in favour of the petitioner, disposed of that writ petition, after laying down that even if the Pay Revision Committee does not

accept the views of the Government, the Government were competent to overrule the decision of the Pay Revision committee and it is for the Government to take a final decision. It was noticed by this Court that it is for the Government to take a decision if it is convinced that the pay scales of the Clinical Psychologists in the Medical Colleges need to be revised on the same footing as that of Clinical Psychologists working in the Health Department. The Government were, accordingly, to pass appropriate orders in accordance with law within three months.

2. By the impugned Ext.P7, the Government informed the petitioner that the Government are not in favour of the revision of scale of pay for the post of Clinical Psychologist in the Medical Education Service because the duties and responsibilities of that post in the Health Service Department are not yet prescribed and hence, cannot be treated as identical. This is an extremely unfortunate view because the complaint of the petitioner is regarding the fixation of pay scale of the Clinical Psychologists in the Health Service Department at a rate

higher than that of the petitioner and similar other persons, who work as Clinical Psychologists in the Medical Education Service. Merely because the duties and responsibilities of the post in the Health Service Department are yet to be prescribed, it is not open to the Government to say that the Government had not considered whether the said post is at par with the post of Clinical Psychologist in the Medical Education Service. As a matter of fact, the Government cannot turn round after having taken a particular stand in O.P.16313/98 before this Court, that it had noticed disparity between the scales of pay of Clinical Psychologists in the Health Service Department and the Medical Education Department. All that then hindered appropriate action by the Government to bring parity between them was that the Pay Revision Committee had taken a different stand. This Court considered the issue and as the constitutional court had laid down in Ext.P6, the Government are not bound always to follow the recommendations of the Pay Revision Committee and if the Government are satisfied of the disparity, it would well be within the authority of the Government to overrule the

recommendations of the Pay Revision Committee and order accordingly. This means, in so far as the issue of law is concerned, it was fairly well settled by Ext.P6 judgment that the Government were obliged under the Constitution to remove disparity, which it had noticed, in the pay scales of Clinical Psychologists in the Medical Education Service and the Health Service Department and to bring the pay scales of the Clinical Psychologists in the Medical Service Department at par with that of those Clinical Psychologists in the Health Service Department.

For the aforesaid reasons, this writ petition is allowed quashing Exts.P5 and P7 and granting the prayers as sought for in reliefs (b) and (c). All consequential reliefs on account of the aforesaid directions shall follow and shall be made available to the petitioner. No costs.

Sd/-

THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.

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THOTTATHIL B. RADHAKRISHNAN, J

O.P.NO.25414 OF 2000 A

JUDGMENT

19TH JUNE, 2007.

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